

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CELLULAR INFORMATION SYSTEMS)	
OF FLORENCE, INC., AN ALABAMA CORPORATION,)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO CONSTRUCT AN)	
ADDITIONAL CELL FACILITY IN THE KENTUCKY RURAL)	CASE NO. 97-073
SERVICE AREA NO. 4 WHICH INCLUDES SPENCER,)	
ANDERSON, HARDIN, NELSON, WASHINGTON,)	
MERCER, MARION, LARUE, GREEN, AND TAYLOR)	
COUNTIES IN KENTUCKY (THE NEW HAVEN CELL)	
FACILITY))	

O R D E R

On February 18, 1997, Cellular Information Systems of Florence, Inc. ("Cellular Information") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for Rural Service Area No. 4 ("RSA No. 4"). RSA No. 4 includes Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, and Washington counties. Cellular Information has requested authorization to construct a cell site in Hardin County. Cellular Information was previously granted authority to operate a cellular radio telecommunications system in RSA No. 4 in Case No. 96-491.¹

¹ Case No. 96-491, The Joint Application of PriCellular Corporation, a Delaware Corporation, Cellular Information Systems of Florence, Inc., an Alabama Corporation and Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership for the Approval of the Acquisition of the Assets of Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership and for Acceptance of Adoption of Tariff.

The proposed cell site consists of a 400-foot or less guyed antenna tower to be located at 2025 LaFollette Road, New Haven, Hardin County, Kentucky ("the New Haven cell site"). The coordinates for the New Haven cell site are North Latitude 34° 43' 04" by West Longitude 85° 42' 31".

Cellular Information has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the New Haven cell site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.324(1), the New Haven cell site's construction is exempt from local zoning ordinances; however, Cellular Information notified the Hardin County Planning Commission of the pending construction. Cellular Information has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the New Haven cell site. Both applications are pending.

Cellular Information has filed notices verifying that each person who owns property or who resides within 500 feet of the New Haven cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Cellular Information's application was filed. On March 6, 1997, the Commission received a protest letter from Robert M. McCance, Jr., Director of the Kentucky State Nature Preserves Commission. On March 14, 1997, the Commission ordered Cellular information to respond to Mr. McCance's letter and informed

him of his right to intervene. By letter dated March 18, 1997, Cellular Information responded as ordered. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Cellular Information should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Cellular Information.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cellular Information should be granted a Certificate of Public Convenience and Necessity to construct and operate the New Haven cell site in RSA No. 4 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Cellular Information is granted a Certificate of Public Convenience and Necessity to construct and operate the New Haven cell site.
2. Cellular Information shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

3. Cellular Information shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 23rd day of April, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director